

D3MJPARS

Sentence

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

09 Cr. 581 WHP

5 DAVID K. PARSE, et al.,

6 Defendants.

7 -----x

8  
9 March 22, 2013  
2:30 p.m.

10 Before:

11 HON. WILLIAM H. PAULEY III,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA,  
16 United States Attorney for the  
Southern District of New York  
17 STANLEY J. OKULA, JR.,  
JASON HERNANDEZ,  
18 Assistant United States Attorneys  
- and -  
19 NANETTE DAVIS, Esq.  
U.S. Department of Justice - Tax Divison

20 ZUCKERMAN SPAEDER, LLP,  
Attorneys for defendant Parse  
21 BY: PAUL L. SCHECHTMAN, Esq.  
Of counsel

22 Also Present:  
23 CHRISTINE MAZZELLA,  
Special Agent IRS  
24  
25

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1 (In open court)

2 (Case called)

3 THE COURT: Good afternoon. Please be seated. I note  
4 Mr. Parse's presence at counsel table.

5 This matter is on for sentencing. Are the parties  
6 ready to proceed?

7 MS. DAVIS: We are, your Honor.

8 MR. SHECHTMAN: We are, your Honor.

9 THE COURT: Mr. Shechtman, have you reviewed with your  
10 client the presentence investigation report?

11 MR. SHECHTMAN: I have, sir.

12 THE COURT: Are there any factual matters in the  
13 report that you believe warrant modification or correction?

14 MR. SHECHTMAN: No. The factual matters I think have  
15 all been corrected. The other matters your Honor is aware of  
16 from correspondence.

17 THE COURT: I am, yes. Ms. Davis, are there any  
18 factual matters in the presentence report that the government  
19 believes warrant modification or correction?

20 MS. DAVIS: No, your Honor.

21 THE COURT: All right. Let me begin by saying I have  
22 reviewed all the parties' submissions including Mr. Shechtman's  
23 submission this morning concerning two arguments that he simply  
24 is preserving for appeal. With that said, Mr. Shechtman, do  
25 you wish to be heard?

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1 MR. SHECHTMAN: I do, Judge.

2 Judge, I do not know your Honor well, but I note two  
3 things to be true, two things that I believe are relevant to  
4 sentencing today.

5 THE COURT: Mr. Shechtman, for my benefit as well as  
6 everyone else's, would you use the microphone.

7 MR. SHECHTMAN: I thought I was. I apologize.

8 THE COURT: That is all right.

9 MR. SHECHTMAN: First, I know your Honor holds lawyers  
10 to high standards, understandably so. With a law degree comes  
11 a commitment to practice ethically and above all, to respect  
12 the law.

13 What makes this case so disheartening is that high  
14 powered tax lawyers abandon their obligation to the law. Their  
15 conduct, in my view, is plain to me and the courts as well was  
16 indefensible. I can only hope and ask in sentencing David  
17 Parse, you do not put him in their category. He was not a tax  
18 lawyer. He did not design these shelters. He did not market  
19 them. His judgment may not have been perfect, but that can be  
20 said of his superiors at Deutsche Bank who approved the bank's  
21 participation in these shelters and it can be said of many  
22 other brokers who effected similar trades but have been spared  
23 Mr. Parse's fate.

24 At sentencing, a judge compares the conduct of one man  
25 or one woman against that of another, one crime against

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1 another, one life against another. Putting David Parse in the  
2 same category with Paul Daugerdas or Donna Guerin, I  
3 respectfully submit, is the wrong comparison.

4 The second thing I know is that your Honor has read  
5 every word of my sentencing submission and the letters attached  
6 to it and you have already thought long and hard about  
7 Mr. Parse's sentence. That is a good reason for me to keep my  
8 remarks short.

9 In my submission I tried to show that David Parse was  
10 a good man, a man who cares deeply about his family, his  
11 friends, his community. I hope I have persuaded you that  
12 Mr. Parse is a fundamentally decent man, and more importantly,  
13 I hope I have persuaded you that he is at the periphery in  
14 terms of culpability of this criminal scheme.

15 I hope I have persuaded you of that because I believe  
16 it. Permit me two more observations. The first involves  
17 acquitted conduct. Your Honor will decide today how to read  
18 the jury's verdict. The parties have gone back and forth on  
19 that. You know my view. I would only add this:

20 When I started practicing in this Court, we tried 15  
21 percent of criminal cases. Today that number is closer to 3  
22 percent. Trials matter. Acquittals matter. If a defendant  
23 who is acquitted of the overarching tax conspiracy like  
24 Mr. Parse was is treated as if he was convicted of it,  
25 incentives to try cases will be dulled further.

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1 In her submission, Ms. Davis told the jury this about  
2 Mr. Parse, and I quote:

3 "The back-dating alone is enough for you to conclude  
4 that a crime was committed. Whether or not the shelters had  
5 economic substance, under the law it is illegal to falsify the  
6 dates of a transaction to gain a tax advantage, which is what  
7 was done here."

8 Judge, whether that was done here is not today's  
9 quarrel, but I believe the jury listened to those words. I  
10 believe it convicted Mr. Parse on the basis of those three  
11 transactions and I ask the court to sentence him accordingly.

12 The second observation is this: I recognize that  
13 those who commit white collar crimes must be punished. Their  
14 crimes harm society as much as violent ones, but  
15 proportionality and parsimony are the cornerstones of a just  
16 sentence and a just society. What is being asked for today, I  
17 submit, fails those tests.

18 As your Honor knows, each day a person is  
19 incarcerated, he suffers real deprivations, his children grow  
20 up, his loved ones drift away, his employment opportunities  
21 fade. Even a short separation from family and loved ones is  
22 real punishment. Judge, David Parse does not deserve the type  
23 of sentence that is being called for here. I submit it would  
24 be unjust. Thank your Honor.

25 THE COURT: Thank you, Mr. Shechtman.

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1 Ms. Davis.

2 MS. DAVIS: Good afternoon, your Honor.

3 Mr. Shechtman said that trials matter and acquittals  
4 matter, but here convictions matter, too. That is why we are  
5 here for sentencing. What Mr. Parse was convicted of was a  
6 broad ranging tax fraud that can be called the largest tax  
7 fraud in history, and I want to emphasize, your Honor,  
8 Mr. Parse was not a peripheral player in this.

9 For without the investments that he and his cohort  
10 Brubaker implemented at Deutsche Bank, these tax fraud shelters  
11 would not and could not have happened. I don't think it is too  
12 much to say the investments are the fulcrum of this tax fraud.  
13 It was the key to any argument to be had by the tax lawyers.

14 There is no question that Mr. Parse's participation in  
15 this conduct was voluntary, it was willful, it was unlawful and  
16 it was knowing, and it is for these reasons we ask for a  
17 significant term of prison time.

18 I certainly don't quarrel with Mr. Shechtman in terms  
19 of his statement about the damage that prison time inflicts on  
20 the loved ones and the career prospects of a convicted  
21 defendant. However, that is true for every convicted defendant  
22 that comes through these doors.

23 With regard to the nature of the crime, I will say  
24 this. The scope of this tax fraud, your Honor, was truly  
25 staggering. Certainly from the Internal Revenue Service's

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1 perspective and Department of Justice's perspective, it  
2 required absolutely unbelievable amounts of time and resources  
3 to prosecute not just this case, but to also handle all the  
4 civil cases that are coming and are still out there being  
5 litigated in many district courts, in tax court, Court of  
6 Federal Claims and will continue no doubt to be litigated for  
7 years to come.

8 We urge very strongly your Honor to impose a  
9 significant term of imprisonment for a very basic reason. Just  
10 that with a white collar criminal so often the calculus is can  
11 I get away with it? And if I can't, what is going to happen to  
12 me?

13 If the answer is only you will have to pay some sort  
14 of sum of money in terms of penalty or restitution, we submit  
15 that that sends the wrong message, and that is not a message  
16 that is going to deter a white collar criminal like David  
17 Parse.

18 It is especially acute in a tax case like this where  
19 the very discovery of the crime was extremely difficult, in  
20 that the product, if you will, was designed with layers of  
21 complex entities, transfers, financial products that make it  
22 extremely difficult to find out what is happening even if you  
23 know the scope of the transaction itself which wasn't  
24 self-evident at the beginning of this process, your Honor, for  
25 the Internal Revenue Service.

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1 I can certainly answer any questions you might have  
2 with regard to the specific arguments Mr. Shechtman raised with  
3 regard to his objections to the presentence report, but we  
4 submit that a significant term of imprisonment for Mr. Parse's  
5 flagrant, enduring and criminal conduct for success of the  
6 criminal venture is warranted in this case.

7 Thank you.

8 THE COURT: I do have a couple of questions for both  
9 of you regarding forfeiture in particular.

10 Can the government explain to me the difference in  
11 forfeiture amount that it sought and obtained from Ms. Guerin  
12 in the amount of \$1.6 million and that which the government  
13 requests here from Mr. Parse of 146 million?

14 MS. DAVIS: Your Honor, the forfeiture component with  
15 Ms. Guerin was a negotiated point that was, frankly, an  
16 important point for them in order to come to the table, and we  
17 negotiated it down, to be honest. We're in a different posture  
18 with Mr. Parse.

19 THE COURT: So I should impose a \$146 million  
20 forfeiture on Mr. Parse when the government agreed that 1.6  
21 million was sufficient from Ms. Guerin?

22 MS. DAVIS: One moment.

23 (Off-the-record discussion)

24 MS. DAVIS: One of our considerations, your Honor, in  
25 reaching that agreement with Ms. Guerin was it was money in



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1 hand that she produced at sentencing, as you know, that it  
2 relieves us of responsibility both of litigating the forfeiture  
3 issue and going after assets.

4 That is not the case here. Under the law, we believe  
5 we can ask for the full amount of forfeiture.

6 THE COURT: How did the government arrive at the \$146  
7 million figure?

8 MS. DAVIS: That's the proceeds, the fees proceeds, if  
9 you will, your Honor, that went into the pockets of the  
10 defendants as we have articulated in our sentencing papers.

11 THE COURT: Specifically how much does the government  
12 contend that Mr. Parse personally benefited from this scheme?

13 MS. DAVIS: \$3 million, your Honor.

14 THE COURT: You've reviewed the presentence report,  
15 right?

16 MS. DAVIS: Yes, of course, your Honor.

17 THE COURT: Did the government make any inquiry as to  
18 how Mrs. Parse, who is a stay-at-home mother, could have \$3.6  
19 million in her personal securities account?

20 MS. DAVIS: I am sorry. When you say did we make any  
21 inquire as to how that could be?

22 THE COURT: Yes. When you were investigating this  
23 case, you've looked at the assets report by the Parses in the  
24 presentence report, right?

25 MS. DAVIS: Yes.

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1 THE COURT: You were present at the sentencing hearing  
2 that I conducted a couple of weeks ago regarding Ms. Guerin,  
3 right?

4 MS. DAVIS: Yes, your Honor.

5 THE COURT: It shouldn't come as a surprise to you  
6 that I would be interested to know what the result of the  
7 government's inquiry was during its investigation as to where  
8 that substantial wealth that Mrs. Parse has came from, would  
9 it?

10 MR. OKULA: I am sorry, your Honor.

11 (Off-the-record discussion)

12 MS. DAVIS: We did not do specific tracing of the  
13 funds that went into her securities account, but given that she  
14 is a stay-at-home mother and wife and the fact that he was  
15 earning substantial amounts from both his Deutsche Bank days  
16 but also his subsequent brokerage days, it is reasonable to  
17 infer the funds that went into the securities account derived  
18 from his work activities.

19 THE COURT: With all your investigative resources, you  
20 didn't attempt to ascertain whether those funds were part of  
21 the \$3 million in illicit gains that the government says  
22 Mr. Parse obtained?

23 MS. DAVIS: We did not. We were not able to ascertain  
24 that, your Honor.

25 THE COURT: All right. Thank you.

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1 MS. DAVIS: Thank you.

2 THE COURT: Mr. Shechtman, I have a couple of  
3 questions for you on this issue as well.

4 MR. SHECHTMAN: Yes, your Honor.

5 THE COURT: Can you offer the court any explanation as  
6 to why the bulk of Mr. Parse's assets are in Mrs. Parse's name?

7 MR. SHECHTMAN: I can offer the following, your Honor:

8 What I know is that they were moved there well prior  
9 to indictment. I am not sure that -- I know the court may not  
10 look upon the following sentence in the way that Mr. Parse did  
11 at the time. They were moved there with discussion with his  
12 then counsel, who said the movement was appropriate. They were  
13 obviously fully disclosed to Probation, and so that's the short  
14 answer to the question.

15 There is no doubt, your Honor, that those were monies  
16 that were derived from Mr. Parse's, largely derived from  
17 Mr. Parse's work at Deutsche Bank. His wife has worked at  
18 least I think through 2000, 2001, had significant  
19 responsibilities, but for much of the period after that she was  
20 a home-maker and had, as you know, illnesses that prevented her  
21 from working full time. I hope that is a fair answer to the  
22 question.

23 THE COURT: Have all of Mr. Parse's legal fees in  
24 connection with this matter been paid by Deutsche Bank?

25 MR. SHECHTMAN: Yes, your Honor.

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1 THE COURT: Can you approximate for me the magnitude  
2 of the fees that Deutsche Bank has paid on Mr. Parse's behalf?

3 MR. SHECHTMAN: I can tell you what mine are. Again I  
4 can't begin to guess what the Brune firms are. They are far in  
5 excess of mine. Mine are in the neighborhood of \$300,000. My  
6 firm says I don't bill enough.

7 THE COURT: Is Deutsche Bank, do you know whether  
8 Deutsche Bank has a continuing obligation to pay Mr. Parse's  
9 legal fees after sentencing?

10 MR. SHECHTMAN: I think the answer, your Honor, I  
11 don't know whether they have a continuing legal obligation.  
12 They have told me they're committed to doing so.

13 THE COURT: All right. Thank you.

14 MR. SHECHTMAN: Judge, with some temerity, may I say  
15 one thing, which is I could be wrong?

16 I think at the end, end of the day, your central  
17 question is what did the jury convict of, and I didn't mean in  
18 my remarks to suggest that Mr. Parse wasn't critical to all of  
19 this in the sense you can't get to the bottom line here unless  
20 you have a digital option trade or a short or whatever it may  
21 be.

22 What Ms. Davis said was without the trades that he and  
23 Mr. Brubaker affected, this tax conspiracy could not have  
24 occurred. That one cannot deny. We do know Mr. Brubaker was  
25 acquitted, and I think Mr. Parse was acquitted of knowing that

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1 these tax schemes had no economic substance and that his  
2 conviction here was just, just the three transactions. I have  
3 said it in my papers, but I wanted to make sure I said it one  
4 more time.

5 THE COURT: Before you sit down, has there been any  
6 material change in Mr. Parse's financial condition since the  
7 presentence report reports his condition as of last August?

8 MR. SHECHTMAN: Judge, he has lived off of savings,  
9 but lived modestly. So there is no significant increase in  
10 assets, and the reduction, you can take his living expenses and  
11 multiply by X. I think the short answer is not really.

12 THE COURT: Thank you.

13 Mr. Shechtman, at this time does your client wish to  
14 address the court?

15 MR. SHECHTMAN: Yes, your Honor.

16 THE COURT: Very well.

17 THE DEFENDANT: Judge Pauley, I have tried to live my  
18 life personally and professionally in a proper manner. I was  
19 raised to value hard work and to respect others. My wife and I  
20 have tried to raise our children with those same values. Those  
21 are the values I tried to teach other children as well.

22 I never dreamed that I would be standing here today  
23 before a federal judge facing sentencing for felony  
24 convictions. I regret not seeing things for what they truly  
25 were. I know that whatever my sentence, you have given it

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1 great thought, and I thank you for that.

2 THE COURT: The defendant, David Parse, comes before  
3 this Court following his conviction after a jury trial in this  
4 district of two crimes, the corrupt endeavor to obstruct and  
5 impede the administration of the Internal Revenue laws and the  
6 crime of mail fraud. Both are serious offenses against the  
7 United States.

8 Turning first to the guidelines calculations, the  
9 parties dispute the guideline calculation concerning the  
10 corrupt endeavor to obstruct the Internal Revenue laws as  
11 charged in Count 20 and mail fraud as charged in Count 25.

12 In his letter to Probation, Parse contends that, "A  
13 fair reading of the jury's verdict is that he was convicted  
14 only for his role in the three instances of fraudulent  
15 backdating," and he advances the same argument in his  
16 submissions to this Court.

17 Parse's argument rests on Juror No. 1, Katherine  
18 Conrad's letter to the government. There Conrad stated that,  
19 "She solely held out for two days on the conspiracy charge for  
20 Parse, and when she couldn't sway the jury to her position that  
21 the 'backdating' was enough for the other charges."

22 But Conrad is a monstrous liar. Her blatant perjury  
23 on every matter of substance makes everything she says under  
24 oath or in a letter utterly meaningless. That Parse would seek  
25 to credit anything she might have to say is just too thin a

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1 reed. Conrad simply cannot be relied on for anything of  
2 importance let alone a window into the jury's collective mind.

3 While her letter evidences a bias toward the  
4 government, it did not pierce the veil of secrecy that  
5 surrounds jury deliberations, and this Court declines the  
6 invitation to view Conrad's letter as some indication of the  
7 mindset of all the other jurors who faithfully served.

8 As charged, Count 20 holds Parse responsible for the  
9 corrupt endeavor to obstruct and impede the administration of  
10 the Internal Revenue laws from 1994 through October of 2005,  
11 and Count 25 holds Parse responsible for the mail fraud scheme  
12 during the same time period.

13 Section 1B1.3 of the guidelines requires this Court,  
14 in calculating the base offense level, to account for Parse's  
15 criminal acts, all foreseeable, reasonably foreseeable acts of  
16 others in furtherance of the jointly undertaken criminal  
17 activity and all of the harms that resulted from those acts.

18 Parse's involvement in the corrupt endeavor was not  
19 limited to the backdating of three transactions. He helped  
20 execute the complicated options structured in the SOS, Homer  
21 and swaps fraudulent tax shelter transactions and he brought  
22 clients to Jenkins & Gilchrist. His meeting in Toledo, Ohio  
23 with Dean Kasperzak, Daugerdas and others is emblematic of his  
24 involvement in the corrupt scheme.

25 The testimony at trial regarding that meeting

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1 establishes that Parse knew that Kasperzak was seeking to avoid  
2 taxes, that Daugerdas was selling him a fraudulent tax shelter,  
3 that Kasperzak would lie about it if the government ever  
4 challenged it and that Parse would execute the transactions.  
5 Parse was also aware of the scope of the fraudulent tax shelter  
6 scheme.

7 Accordingly, this Court calculates his base offense  
8 level consistent with the harm that resulted from his acts and  
9 the reasonably foreseeable acts of others in furtherance of the  
10 scheme. Thus, I find that Probation properly calculated the  
11 tax loss amount as \$1,630,166,343.00, and this Court adopts  
12 that calculation and assigns a base offense level of 36.

13 Turning to sophisticated means, building on his  
14 earlier argument, Parse asserts that the backdating did not  
15 involve sophisticated means, but as this Court observed,  
16 backdating was just one of Parse's many criminal acts. Parse  
17 also helped to execute the SOS, Homer and swaps tax shelter  
18 transactions, the sales and investments within the shelters and  
19 steered clients to Jenkins & Gilchrist.

20 This Court observed during Guerin's sentencing that  
21 the scheme involved the creation of LLC's and other entities  
22 to, "hide the ball." The scheme was complex and sophisticated.  
23 Section 2T1.1 (b)(2) provides for a two-level increase if the  
24 offense involved sophisticated means. This enhancement applies  
25 to the offense, not the characteristics of an individual



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1 defendant. See United States versus Lewis, 93 F.3d 1075, 1084  
2 (2d Cir. 1996). The rule in Lewis is broad and covers Parse's  
3 conduct. Accordingly, the enhancement for sophisticated means  
4 applies.

5 Turning to special skills, Section 3B1.3 of the  
6 guidelines provides for a two-level increase if the defendant  
7 used a special skill in a manner that significantly facilitated  
8 the commission or concealment of the offense. Parse, a CPA and  
9 stockbroker, used his training, education and experience to  
10 help design the option transactions, explained them at length  
11 with multiple customers, and used his skills to backdate three  
12 transactions. That his assistant executed them is  
13 inconsequential.

14 His skills were used in designing the options in the  
15 first place, and the enhancement for special skills applies.  
16 Thus, the total offense level is 40. This is Mr. Parse's first  
17 criminal conviction, and so his criminal history category is a  
18 I. That yields a guideline range of 292 to 365 months, but the  
19 maximum statutory term for these crimes is a total of 276  
20 months.

21 Now, this Court adopts the findings of fact in the  
22 presentence report as my own, and I will cause the report to be  
23 docketed and filed under seal as part of the record in this  
24 case.

25 Turning to the restitution issue, the mandatory Victim

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1 Restitution Act of 1996 requires the imposition of restitution  
2 equal to the amount of actual loss suffered by the victim, here  
3 the Internal Revenue Service. See United States versus  
4 Carboni, 204 F.3d 39, 47 (2d Cir. 2000). The amount of loss is  
5 calculated as of the date of sentencing and includes  
6 prejudgment interest. See United States versus Quirashi, 634  
7 F.3d 699, 703-704 (2d Cir. 2011).

8 Pursuant to 26 U.S.C. Sections 6621 and 6622, the  
9 interest is compounded daily at a quarterly-determined rate  
10 equal to the federal short term rate plus 3 percent. The  
11 parties agree that the restitution calculation submitted by the  
12 government is mathematically correct. This Court adopts those  
13 math calculations as its own; and, accordingly, the total  
14 amount of restitution, including prejudgment interest, is  
15 \$231,660,534.00.

16 In addition, this Court may, "make each defendant  
17 liable for payment of the full amount of restitution or may  
18 apportion liability among the defendants to reflect the level  
19 of contribution to the victim's loss and economic circumstances  
20 of each defendant." That is 3664 (h).

21 Parse played a central and long-standing role in the  
22 criminal scheme, but his contribution to the tax loss is not  
23 the same as Guerin's. He did not train others to follow in his  
24 footsteps. Parse profited the least of the others in the  
25 scheme, reaping only 2 percent of the total profits they made.

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1 Unlike Guerin, this Court is not left to wonder where the money  
2 is. Because of that, this Court will not hold Parse  
3 responsible for the full amount of restitution and instead will  
4 set an apportioned restitution amount for him.

5 I'm going to fix a restitution amount that is 50  
6 percent of the restitution amounts that were fixed for Guerin.  
7 As the government noted in its submission, its calculation with  
8 respect to Ms. Guerin was itself erroneous, but that's history.

9 So I am going to make Parse responsible jointly and  
10 severally with Guerin and any co-conspirator sentenced in the  
11 future to 50 percent of \$190,355,836.00. In addition, Parse is  
12 also jointly and severally liable with any co-conspirator  
13 sentenced in the future, but not Guerin, to the additional  
14 corrected prejudgment interest that has accrued for those  
15 losses in the amount of \$294,027.00.

16 In addition, Parse is also jointly and severally  
17 liable with any co-conspirator sentenced in the future, but not  
18 Guerin, to the additional prejudgment interest that has accrued  
19 for those losses in the amount of \$206,839.00.

20 Finally, Parse is jointly and severally liable with  
21 any co-conspirator sentenced in the future, but not Guerin, for  
22 the additional base loss amount associated with additional  
23 losses from Arthur Frigo in the amount of \$20,151,484.00.

24 With respect to forfeiture, this Court is imposing an  
25 order of forfeiture on Mr. Parse in the amount of \$1 million.

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1           Now, turning to the custodial part of the sentence,  
2           Oliver Wendell Holmes famously wrote taxes are the price we pay  
3           for a civilized society. This case reveals the bizarre lengths  
4           that some super-wealthy individuals will go to in order to  
5           avoid their obligation as citizens. The tax shelter fraud  
6           scheme perpetrated by Parse and others was breathtaking in its  
7           scope and in the damage to our nation, nearly a billion in  
8           fraudulent tax benefit claims and more than 1.5 billion in lost  
9           tax revenue to the United States. It corrupted numerous  
10          professionals including attorneys, accountants and financial  
11          advisors. It involved some of our largest financial,  
12          accounting and legal firms including Deutsche Bank, BDO Seidman  
13          and Jenkins & Gilchrist.

14          Because of the complexity of the scheme, its success  
15          relied on the unethical and criminal behavior of highly  
16          educated, highly compensated professionals like Mr. Parse.  
17          Lawyers and accountants became willing tools for the  
18          ultra-wealthy to avoid paying their fair share of taxes, and  
19          these professionals flagrantly violated their professional  
20          responsibilities in order to line their pockets.

21          As I've observed before, this case is all about greed.  
22          Parse played an essential role in the scheme, helping to  
23          execute the tax shelter transactions and referring clients.  
24          Parse wasn't the mastermind, but without him the tax shelters  
25          would be little more than talking points. Daugerdas and Guerin

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1 needed a willing banker who would execute the trades according  
2 to their carefully selected financial devices. They needed an  
3 unethical banker who would violate the most fundamental  
4 principles of his chosen profession -- accounting -- to further  
5 their scheme, and they needed a reputable banker who had no  
6 qualms as he listened to an attorney counsel a client to lie.

7           They found all of those flaws in David Parse. Aside  
8 from his criminal endeavor, Parse appears to have lived the  
9 American dream. He grew up in a blue collar family, worked  
10 hard and by all accounts was successful. In mid-life Parse was  
11 a respected banker and investment adviser at one of the largest  
12 banks in the world. He had a stable marriage and three sons.  
13 He lived a Norman Rockwell existence in an upscale community.

14           Parse is described in the submissions I've read as  
15 always being there for his children and actively involved in  
16 their activities. Parse's friends and family characterize him  
17 as a role model and Parse has volunteered thousands of hours of  
18 his personal time to coaching youngsters.

19           His commitment to his community is not a ploy for  
20 sentencing. Rather it says something profound about the kind  
21 of man he is. This Court understands from the presentence  
22 report that Mr. Parse has shielded his sons from the specifics  
23 of this case. That is completely understandable. They're  
24 young and they should enjoy the innocence of childhood.

25           Well, Mr. Parse, this Court did not expect you to

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1 accept responsibility in your remarks here today, and you  
2 exercised your constitutional right to a trial, and this Court  
3 will not penalize you for invoking that right, but this Court  
4 hopes that in the future when you discuss this case, your  
5 conviction and your sentence with your children, that you'll  
6 explain it honestly and accept the jury's judgment. You can  
7 teach your children a valuable lesson in taking responsibility  
8 and seeking redemption. This Court hopes that when that moment  
9 arrives, that you'll fulfill your parental obligation to be a  
10 role model and live up to the narrative that your friends and  
11 family have presented in their letters to this Court.

12 Your selflessness towards friends and family is  
13 obvious. Unfortunately, it was your selfishness that brings  
14 you here today. You didn't need the money you gained from this  
15 corrupt scheme. You already had more than enough to live a  
16 very comfortable life, but you got caught up with the multitude  
17 and joined them in the scheme, and you even tried to shield  
18 your ill-gotten gains by participating in one of the fraudulent  
19 tax shelters yourself. You sat mute when your co-defendant  
20 told your banking client to lie if he was ever questioned by  
21 the government.

22 What on earth were you thinking?

23 Certainly you knew that if your criminal acts were  
24 discovered, the consequences would be severe and you knew you'd  
25 run the risk of forfeiting your freedom, but undoubtedly you

D3MJPARS

Sentence

1 thought you'd never get caught. The law of money and your  
2 belief you were all too clever to get caught overwhelmed your  
3 sense of what is right and wrong.

4           There is a compelling need for general deterrence.  
5 Indeed, many of the professionals involved in this tax shelter  
6 fraud scheme were not charged, nor were the super-wealthy tax  
7 cheats, but that reality merely underscores the importance of  
8 general deterrence for tax shelter fraud schemes. You could  
9 have assisted the government in its investigation, but you  
10 chose not to, and you were willing to let your clients lie to  
11 the government.

12           In the end, that allowed the scheme to continue and  
13 facilitated the loss of more than a billion dollars in revenue  
14 and the expenditure of what are undoubtedly tens of millions of  
15 dollars in investigation and prosecution of this case and all  
16 of the related cases.

17           I have tried in my remarks to you to draw together all  
18 of the factors under Section 3553; the severity of these  
19 offenses, the damage they do, the need for deterrence, both  
20 specific and general, your role in this overall scheme and your  
21 own family circumstances, and it is against that backdrop that  
22 this Court is prepared to impose a sentence on you.

23           Mr. Parse, I ask you to stand.

24           Mr. Parse, I for one do not feel a sentence in the  
25 guideline range is appropriate nor do I share the government's

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Sentence

1 view that a sentence like the sentence that I gave Ms. Guerin  
2 is appropriate, but your acts were serious and you need to be  
3 sentenced to a significant term to reflect those compelling  
4 facts.

5 It's my judgment that you be sentenced to a total term  
6 of 42 months of imprisonment, 36 months on Count 20 and 42  
7 months on Count 25, to be served concurrently, to be followed  
8 by one year of supervised release on Count 20 and three years  
9 of supervised release on Count 25, also to be served  
10 concurrently.

11 I am also going to impose on you a mandatory \$200.00  
12 special assessment.

13 With respect to the restitution that I have imposed, I  
14 am going to require you as a condition of supervised release to  
15 pay 20 percent of your gross monthly income during the period  
16 of your supervised release toward the restitution that I have  
17 imposed on you.

18 I will impose all of the standard conditions of  
19 supervised release as well as that special condition that you  
20 pay restitution. There is a further special condition that you  
21 provide your probation officer with access to any requested  
22 financial records during the period of your supervised release  
23 and that you not incur any new obligations unless you are in  
24 compliance with your installment payment schedule during the  
25 term of your supervised release.



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Sentence

1           This, Mr. Parse, represents the sentence of this  
2 Court. I advise you that you have the right to appeal this  
3 sentence. I advise you further that if you cannot afford  
4 counsel, counsel will be provided to you free of charge.

5           Mr. Shechtman has done nothing less than an eloquent  
6 job in representing you in connection with this sentencing and  
7 I am confident that he'll advise you further with respect to  
8 your appellate rights. You may be seated, sir.

9           Are there any further applications by the parties?

10          MR. SHECHTMAN: There is, Judge. There is the  
11 question of bail pending appeal. The criteria, if understand  
12 them right, are flight and the burden is on us, but I don't  
13 think there is a real flight issue here and the existence of a  
14 substantial issue. I don't need to tell the court what that  
15 means.

16          I think there are substantial issues here. I think  
17 the post-trial motions that were filed are far from frivolous.  
18 I think they are ones that reasonable people can disagree  
19 about. I have spoken to the government about this. I don't  
20 want to put words in their mouth, but I think they consent  
21 about pending appeal under the circumstances, and I ask the  
22 court to bring it.

23          MS. DAVIS: Given the relatively unique nature of the  
24 post-trial motions for new trial regarding Juror No. 1, we have  
25 consented to his application for bail pending appeal, but only

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Sentence

1 on that basis.

2 THE COURT: All right. I want to add one other facet  
3 to the judgment of conviction here, and that is that the  
4 direction that Mr. Parse, prior to his surrender date, whatever  
5 date that may be, tender to the United States \$500,000 as an  
6 initial installment toward restitution. I am going to include  
7 that as a feature of the judgment, so I will not fix any date  
8 for Mr. Parse's surrender.

9 For the record, what are the current bail conditions,  
10 Ms. Davis?

11 (Off-the-record discussion)

12 MR. SHECHTMAN: Judge, my understanding is it is  
13 \$500,000. It is secured by Mr. Parse's home which there is a  
14 lien on. We ask that be continued.

15 MS. DAVIS: That is my recollection as well and we  
16 concur with that as adequate at this point.

17 THE COURT: The same travel restrictions will enure;  
18 that is, his travel is limited to the Continental United States  
19 as it was fixed previously and his passport has been  
20 surrendered and there will be no applications for travel  
21 documents.

22 MR. SHECHTMAN: That is understood.

23 THE COURT: Mr. Parse, sir, do you understand that all  
24 of those conditions are going to continue to apply pending  
25 appeal and that the violation of any of those conditions could

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Sentence

1 result in severe penalties against you?

2 THE DEFENDANT: Yes, your Honor, I do understand.

3 THE COURT: Very well, sir.

4 Is there anything further?

5 MR. SHECHTMAN: No. Did your Honor put a date on the  
6 payment of that first installment?

7 THE COURT: Well, the date I put was before he  
8 surrenders.

9 MR. SHECHTMAN: That is understood completely.

10 THE COURT: Before he surrenders.

11 MR. SHECHTMAN: That is eminently fair and reasonable.  
12 We thank the Court.

13 THE COURT: Is there anything further from the  
14 government?

15 MS. DAVIS: No, your Honor.

16 THE COURT: This matter is concluded.

17 (Court adjourned)